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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Feb-25-1988

Reported in : (1989)(39)ELT661TriDel

Appellant : Hind Rectifiers Ltd.

Respondent : Collector of Customs

Judgement :
2. The Collector of Customs (Appeals), Bombay by his order S49-728/82R dated 22.11.1982 said that he had gone through the facts of the case and the submissions made by the appellants and that under conditions of the notification, filing of a bond "implies the claim at the time of entry of the goods". There was no such application for bond, and the conditions of the bond were not fulfilled, but the Collector perhaps did not realise that the importers gave the best bond possible viz.

cash. I cannot imagine anybody would want a bond when he could have cash.

3. To miss the wood for the tree is all too easy in a case like this, but however important form may be, the substance is even more so. It is good to do the correct thing; it is far better to do the right thing.

4. The importers say that they have proved the end use by means of a certificate from the central excise and that such certificates were being accepted. It should be accepted this time also unless there are strong reasons for not doing so. If that

is the case, the department must record them in writing in detail.

4A. I now remand the case to the Assistant Collector to retry the case and in the retrial, the importer shall produce all requisite certificates that are necessary to prove their claim to exemption. But in so doing, the Assistant Collector shall not insist on a bond as the Collector (Appeals) did. He shall take the payment of full duty in cash as that bond.